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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANWAR, *et al.*, Plaintiffs v. FAIRFIELD GREENWICH LIMITED, *et al.*, Defendants.	Master File No. 09-cv-118 (VM)
This Document Relates To: *Zohar v. Fairfield Greenwich Group*, No. 09-CV-4031 (VM) ("*Zohar*")	

DECLARATION OF HILLARY SOBEL IN SUPPORT OF MOTION TO EXTEND TIME FOR SERVICE OF COMPLAINT

Pursuant to 28 U.S.C. 1746, Hillary Sobel, hereby declares as follows:

1. I am senior counsel at the law firm of Zwerling, Schachter & Zwerling, LLP, counsel for Plaintiffs Nadav Zohar and Ronit Zohar. I am fully familiar with all of the facts and circumstances herein.

2. I submit this declaration in support of the Motion to Extend Time for Service of Complaint.

Attempted Service of Complaint on Defendants Fairfield Greenwich (Bermuda) Ltd. and Andres Piedrahita

3. On May 5, 2009, I spoke with Peter Kazanoff and Sara Ricciardi, attorneys at Simpson Thacher & Bartlett, counsel for among other defendants, defendant Fairfield Greenwich (Bermuda) Ltd., to request that they accept service of the *Zohar* complaint on behalf of their clients. Mr. Kazanoff expressed their belief that because *Zohar* had been consolidated

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with *Anwar* and the *Zohar* docket closed, that his clients have no obligation to answer *Zohar*. He did indicate during that conversation that if *Zohar* were deconsolidated, then he would treat us as he did other counsel and would at that juncture, accept service.

4. Also on May 5, 2009, I spoke with David Hoffner, an attorney at Dechert LLP, counsel for Andres Piedrahita. At that time, I requested that he accept service and waive service of the summons. Mr. Hoffner indicated that he believed the issue moot because the court had consolidated *Zohar* with *Anwar*.

5. On June 4, 2009, this Court entered an amended order consolidating *Zohar* with *Anwar* for pre-trial purposes.

6. On June 8, 2009, I again spoke with Mr. Hoffner. During that conversation, he reiterated that he would not accept service on behalf of Mr. Piedrahita. Mr. Hoffner indicated that he has not accepted service in any of the Fairfield-related cases[1] and he articulated his position that plaintiffs needed to serve Mr. Piedrahita under the Hague Convention. He also indicated that plaintiffs should serve Mr. Piedrahita as the plaintiffs had done in *Anwar*.

7. As reflected in the *Anwar* docket sheet, the *Anwar* plaintiffs served Mr. Piedrahita at the offices of Fairfield Greenwich Group. *See Anwar* Docket Entry No. 29.

8. On June 11, 2009, I again spoke with Mr. Kazanoff and Ms. Ricciardi, advising them that the Court had entered an amended order regarding the consolidation of *Zohar* with *Anwar*. Mr. Kazanoff requested an opportunity to consider whether that amended order changed their position regarding the acceptance of service of the *Zohar* complaint.

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[1] However, by the time of this conversation, Mr. Hoffner filed an appearance on behalf of Mr. Piedrahita in *Anwar*. *See* Anwar Docket Entry No. 142.

9. On June 22, 2009, I spoke with Sara Ricciardi an attorney at Simpson Thacher & Bartlett, counsel for among other defendants, defendant Fairfield Greenwich (Bermuda) Ltd.. During that conversation, I inquired if Ms. Ricciardi would accept service of the *Zohar* complaint. I explained to her during that call that although the Waiver of Service of Summons provides for a specific date by which to respond to the *Zohar* complaint, that *Zohar* plaintiffs would agree that no response would be due until after the entry of any order by the Court directing responses to the *Anwar* and *Zohar* complaints. On the basis of our conversation, and in accordance with FED. R. CIV. P. 4(d), I sent to Ms. Ricciardi the *Zohar* complaint, the Notice of Lawsuit, the Waiver of Service of Summons, this Court's individual practices and the S.D.N.Y. ECF rules. Attached as Exhibit "A" is a true and correct copy of my correspondence to Ms. Ricciardi, dated June 22, 2009.

10. On June 23, 2009, I directed a messenger from our office to serve both Fairfield Greenwich Group (which is not the subject of this motion) and Mr. Piedrahita care of Fairfield Greenwich Group, as the plaintiffs in *Anwar* had done. The messenger was refused and returned to our office without having accomplished service on either defendant.

11. Later, on June 23, 2009, Ms. Ricciardi called me concerned that a messenger from our office had attempted to serve one of Simpson Thacher's clients. However, as we confirmed in the conversation, neither Simpson Thacher represents neither Fairfield Greenwich Group nor Mr. Piedrahita. It represents only three Fairfield Defendants: Fairfield Greenwich Advisors, Fairfield Greenwich (Bermuda) Ltd. and Fairfield Greenwich Limited. During that call, Ms. Ricciardi also acknowledged receipt of the package of documents accompanying the Waivers of Service of Summons that we had discussed the prior day. Attached as Exhibit "B" is a true and correct copy of my e-mail to Ms. Ricciardi confirming our conversation.

12. On June 24, 2009, I sent a written request to Mr. Hoffner seeking waiver of service of summons on behalf of Mr. Piedrahita. Attached as Exhibit "C" is a true and correct copy of my letter to Mr. Hoffner and the Federal Express receipt confirmation.

13. On July 15, 2009, after not having received executed Waivers of Service of Summons, I sent an e-mail to Peter Kazanoff, a partner at Simpson Thacher & Bartlett, inquiring when we would receive them. (Exhibit "D" is a true and correct copy of my e-mail to Mr. Kazanoff.) In response, Ms. Ricciardi called me that same day. I reiterated my request that she, on behalf of Simpson Thacher & Bartlett's clients – including Fairfield Greenwich (Bermuda) Ltd. – send executed Waivers of Service of Summons. Ms. Ricciardi indicated that she believed the mere agreed receipt of the complaint sufficed for service purposes. I explained that we required executed Waivers of Service of Summons in order for service to be deemed effective in this manner. Ms. Ricciardi said that she would get back to me.

14. On July 22, 2009, after a week had passed without receiving either a telephone call or the executed Waivers of Service, I e-mailed Ms. Ricciardi another request for the executed Waivers of Service of Summons. Ms. Ricciardi e-mailed to me her final response:

> Hillary:
> As previously discussed, we acknowledge receipt of your June 22, 2009 letter confirming that we agreed to accept service for Fairfield Greenwich Limited, Fairfield Greenwich (Bermuda) Ltd., and Fairfield Greenwich Advisors. That is sufficient to put this issue to rest.
> Regards,
> Sara

Attached as Exhibit "E" are true and correct copies of the e-mail correspondence of July 22, 2009.

Attempted Service on Defendants PwC Bermuda, PwC Toronto and PwC Rotterdam

15. On July 14, 2009, we sent requests for Waivers of Service of Summons to

PricewaterhouseCoopers Bermuda ("PwC Bermuda"), PricewaterhouseCoopers LLP Chartered Accountants ("PwC Toronto") and PricewaterhouseCoopers Accountants, N.V. ("PwC Rotterdam"). Attached as Exhibit "F" is a true and correct copy of each of the Federal Express receipt confirmations.

16. On July 21, 2009, I spoke with Fraser Hunter an attorney at WilmerHale, counsel to PwCIL. During that conversation, I inquired if Mr. Hunter knew if PwC Bermuda, PwC Toronto and PwC Rotterdam were represented by counsel and if so, by whom. Mr. Hunter indicated that he was not at liberty to answer those questions.

I declare, this 20th day of August, 2009, under penalty of perjury, that the foregoing is true and correct.

s/ Hillary Sobel
Hillary Sobel